



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/858,091 | 05/15/2001 | Andrew C. Gilbert | CF/028 | 2562 |
| 1473 | 7590 | 10/08/2004 | EXAMINER | |
| FISH & NEAVE LLP 1251 AVENUE OF THE AMERICAS 50TH FLOOR NEW YORK, NY 10020-1105 | | | WASYLCHAK, STEVEN R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3624 | |

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/858,091

Applicant(s)

GILBERT, ANDREW C.

Examiner

Steven R. Wasylchak

Art Unit

3624

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☒ Claim(s) 1, 16, 29 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and subsequent are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "substantially" is indefinite. Correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1,15 are rejected under 35 U.S.C. 101 because they lack any explicit technological features. Correction is required.

Claim Rejections - 35 USC § 103

5. Claims 1-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginsberg (US 6,754,639).

Art Unit: 3624

Claims:

1,15, 29, 43 A method for shifting bids or offers in trading system, comprising:

receiving a selection of a plurality of bids or offers a trading system; /fig 6

Ginsberg discloses substantially simultaneously shifting of the selection of the plurality of bids or offers. /abstract; fig 1(30); fig 2 (330); fig 5 (850); col 4, L 5-10.

However, Ginsberg does not explicitly disclose price shifting. Official notice is taken that this feature is old and well known in the art. By shifting terms (col 5, L 43-49) such as maturity by laddering, the price of the bonds shift such that the basket of securities shift (col 4,L 5-10). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of adjusting data for changing market conditions.

For claims 16-19, substitute "size" for "price" and refer to reasoning under 2-5 respectively.

2, 16, 30, 44 The method of claim wherein the are shifted as an absolute shift./col 4, L 6-10

3, 17, 31, 45 The method of claim 1, wherein prices are shifted as a relative shift./col 5, L 43-49

4, 18, 32, 46 The method of claim wherein the shifting of the prices is performed in response to a request by a user./ col 5, L 2-10

5, 19, 33, 47 The method of claim 1, wherein the prices is performed automatically./col 5, L 2-10

6, 20,34,48 The method of claim 1, further

Art Unit: 3624

comprising receiving from a user a status assignment

for at least one of the plurality of bids or offers./ col 5, L2-10

7,21,35,49 The method of claim 6, status assignment of the at least one bids offers is an active status./col 2, L14-22

8,22,36,50 The method of claim 7, wherein the active status permits hits takes be performed on

the at least one of the plurality of bids or offers./col 2, L 14-22; col 9, L 34

9,23,37,51 Ginsberg does not explicitly disclose suspension wherein the status of the at least one of the plurality bids or offers a status.

Official notice is taken that this feature of suspension is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of keeping securities from trading under illegal conditions and any SEC requirements.

10,24,38,52 The method claim 9, wherein the status blocks hits or takes from being

on the at least one the plurality of bids or offers. / col 10, L27-40:blocks if price increases

11,25,39,53 Ginsberg does not explicitly disclose further canceling at least one of the plurality of comprising bids or offers. Official notice is taken that this feature is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of applicant's

Art Unit: 3624

invention to implement this feature for the advantage of keeping securities from trading under illegal conditions and any SEC requirements.

12,26,40,54 Ginsberg does not explicitly disclose comprising receiving a default parameter from that includes a default status parameter for the plurality of bids or offers. Official notice is taken that this feature is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of sustaining trading for market continuity when data is limited.

13,27,41,55 Ginsberg does not explicitly disclose further comprising receiving a default parameter from a user that includes a default shift parameter for the plurality of bids or offers. Official notice is taken that this feature is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of adjusting data for changing market conditions.

14,28,42,56 Ginsberg does not explicitly disclose further comprising receiving a default parameter from a user that is used to shift the prices of the plurality of bids or offers. Official notice is taken that this feature is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of adjusting data for changing market conditions.

Art Unit: 3624


This action is **NON-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R.

Wasylichak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylichak


10 / 1 / 04



MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600